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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Debra Rothenberg,

Plaintiff,

v.

Penske Media Corporation,

Defendant.

Case No:

COMPLAINT FOR:

(1) COPYRIGHT

INFRINGEMENT UNDER

17 U.S.C. §501

JURY TRIAL DEMAND

Plaintiff Debra Rothenberg (“*Plaintiff*”), by and through her undersigned counsel, for her Complaint against defendant Penske Media Corporation (“*Defendant*”) states and alleges as follows:

INTRODUCTION

1. This action seeks to recover damages for copyright infringement under the Copyright Act, 17 U.S.C §101 *et seq.*

2. Plaintiff created a photograph of English singer-songwriter also known as Robert Plant (the “*Photograph*”) in which Plaintiff owns the rights and licenses for various uses including online and print publications.

1 3. Defendant owns and operates a social media account on
2 www.twitter.com and x.com known as “@Rolling Stone” (the “*Account*”).

3 4. Defendant, without permission or authorization from Plaintiff, actively
4 copied and displayed the Photograph on the Account and engaged in this misconduct
5 knowingly and in violation of the United States copyright laws.

6 **PARTIES**

7 5. Plaintiff Debra Rothenberg is an individual who is a citizen of the State
8 of New York and resides in New York County, New York.

9 6. Upon information and belief, defendant Penske Media Corporation is a
10 Delaware corporation with a principal place of business at 11175 Santa Monica
11 Boulevard, Los Angeles in Los Angeles County, California.

12 **JURISDICTION AND VENUE**

13 7. This Court has subject matter jurisdiction over the federal copyright
14 infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

15 8. This Court has personal jurisdiction over Defendant because it
16 maintains its principal place of business in California.

17 9. Venue is proper under 28 U.S.C. §1391(b)(2) because Defendant does
18 business in this Judicial District and/or because a substantial part of the events or
19 omissions giving rise to the claim occurred in this Judicial District.

20 **FACTS COMMON TO ALL CLAIMS**

21 **A. Plaintiff's Copyright Ownership**

22 10. Plaintiff is a professional photographer by trade who is the legal and
23 rightful owner of certain photographs which Plaintiff commercially licenses.

24 11. Plaintiff has invested significant time and money in building Plaintiff's
25 photograph portfolio.

26 12. Plaintiff has obtained active and valid copyright registrations from the
27 United States Copyright Office (the “*USCO*”) which cover many of Plaintiff's
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1 photographs while many others are the subject of pending copyright applications.

2 13. Plaintiff's photographs are original, creative works in which Plaintiff
3 owns protectable copyright interests.

4 14. On March 8, 2019, Plaintiff first published the Photograph. A copy of
5 the Photograph is attached hereto as Exhibit 1.

6 15. In creating the Photograph, Plaintiff personally selected the subject
7 matter, timing, lighting, angle, perspective, depth, lens and camera equipment used
8 to capture the image and made each and every artistic determination necessary for
9 the creation of the work.

10 16. On April 5, 2019, the Photograph was registered by the USCO under
11 Registration No. VA 2-147-408.

12 17. Plaintiff created the Photograph with the intention of it being used
13 commercially and for the purpose of display and/or public distribution.

14 **B. Defendant's Infringing Activity**

15 18. Defendant is the registered owner of the Account and is responsible for
16 its content.

17 19. Defendant is the operator of the Account and is responsible for its
18 content.

19 20. The Account is a key component of Defendant's popular and lucrative
20 commercial enterprise.

21 21. Upon information and belief, Defendant is a sophisticated media
22 company which owns a comprehensive portfolio of digital marketing assets and has
23 advanced operational and strategic expertise in an industry where copyright is
24 prevalent.

25 22. Upon information and belief, Defendant's staff have significant
26 experience in copyright matters and are familiar with specific journalistic practices
27 including the need to ensure that images used in their posts have been properly
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1 licensed.

2 23. Upon information and belief, Defendant has not implemented adequate
3 internal policies to verify copyright ownership before content use, indicating a gross
4 negligence in legal compliance, which is essential for a company with Defendant's
5 reach, capabilities, and level of sophistication.

6 24. Upon information and belief, Defendant's internal policies, if any, are
7 either not designed to verify copyright ownership before content use or are
8 systematically ignored, indicating a willful, recurring disregard for copyright
9 compliance.

10 25. Defendant's failure to adopt or effectively enforce internal copyright
11 policies, if any, indicates *de facto* willful infringement.

12 26. On or about February 13, 2024, without permission or authorization
13 from Plaintiff, Defendant volitionally copied and displayed Defendant displayed the
14 Photograph on the Account as part of an on-line post at URL:
15 <https://x.com/RollingStone/status/1757502123170836495> (the "*Infringement*"). A
16 copy of a screengrab depicting the Infringement is attached hereto as Exhibit 2.

17 27. The Photograph was intentionally and volitionally copied and stored by
18 Defendant at URL:
19 https://pbs.twimg.com/media/GGPmuBPWoAAe44_?format=jpg&name=small.

20 28. The Infringement is an exact copy of Plaintiff's original image that was
21 directly copied and displayed by Defendant.

22 29. Plaintiff first observed the Infringement on September 6, 2024.

23 30. Upon information and belief, the Photograph was copied and displayed
24 by Defendant without license or permission, thereby infringing on Plaintiff's
25 copyrights in and to the Photograph.

26 31. The Infringement includes a URL ("*Uniform Resource Locator*") for a
27 fixed tangible medium of expression that was sufficiently permanent or stable to
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1 permit it to be communicated for a period of more than a transitory duration and
2 therefore constitutes a specific infringement.

3 32. Upon information and belief, Defendant takes an active and pervasive
4 role in the content posted on its Account, including, but not limited to copying,
5 posting, selecting, commenting on and displaying images including but not limited
6 to Plaintiff's Photograph.

7 33. Upon information and belief, the Photograph was willfully and
8 volitionally posted to the Account by Defendant.

9 34. Upon information and belief, the Infringement was not posted at the
10 direction of a "user", as that term is defined in 17 U.S.C. §512(c).

11 35. Upon information and belief, Defendant was aware of facts or
12 circumstances from which the determination regarding the Infringement was
13 apparent. Defendant cannot claim that it was not aware of the infringing activities,
14 including the specific Infringement which form the basis of this complaint, since
15 such a claim would amount to only willful blindness to the Infringement on the part
16 of Defendant.

17 36. Upon information and belief, Defendant engaged in the Infringement
18 knowingly and in violation of applicable United States copyright laws.

19 37. Upon information and belief, Defendant has the legal right and ability
20 to control and limit the infringing activities on its Account and exercised and/or had
21 the right and ability to exercise such right.

22 38. Upon information and belief, Defendant monitors the content on its
23 Account.

24 39. Upon information and belief, Defendant has received a financial benefit
25 directly attributable to the Infringement.

26 40. Upon information and belief, the Infringement increased traffic to the
27 Account and, in turn, caused Defendant to realize an increase in its business revenue.
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1 41. Upon information and belief, a large number of people have viewed the
2 unlawful copies of the Photograph on the Account.

3 42. Upon information and belief, Defendant at all times had the ability to
4 stop the reproduction and display of Plaintiff's copyrighted material.

5 43. Defendant's use of the Photograph harmed the actual market for the
6 Photograph.

7 44. Defendant's use of the Photograph, if widespread, would harm
8 Plaintiff's potential market for the Photograph.

9 45. On September 20, 2024, Plaintiff, via counsel, served a letter seeking
10 to address the complaints contained herein concerning Defendant's infringement of
11 Plaintiff's rights-protected work.

12 46. Despite Plaintiff's efforts and willingness to address Defendant's
13 infringing activity, the parties failed to resolve the instant matter and Plaintiff was
14 forced to seek judicial intervention for Defendant's infringing activity.

15 47. Further, despite Plaintiff's notification to Defendant concerning its
16 infringing activity, Defendant continues to infringe on Plaintiff's work thereby
17 establishing the willful nature of its conduct.

18 48. As a result of Defendant's misconduct, Plaintiff has been substantially
19 harmed.

20 **FIRST COUNT**

21 ***(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)***

22 49. Plaintiff repeats and incorporates by reference the allegations contained
23 in the preceding paragraphs, as though set forth in full herein.

24 50. The Photograph is an original, creative work in which Plaintiff owns a
25 valid copyright.

26 51. The Photograph is properly registered with the USCO and Plaintiff has
27 complied with all statutory formalities under the Copyright Act and under
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1 regulations published by the USCO.

2 52. Plaintiff has not granted Defendant a license or the right to use the
3 Photograph in any manner, nor has Plaintiff assigned any of its exclusive rights in
4 the copyright to Defendant.

5 53. Without permission or authorization from Plaintiff and in willful
6 violation of Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and
7 illegally copied, reproduced, distributed, adapted, and/or publicly displayed works
8 copyrighted by Plaintiff thereby violating one of Plaintiff's exclusive rights in its
9 copyrights.

10 54. Defendant's reproduction of the Photograph and display of the
11 Photograph constitutes willful copyright infringement.

12 55. Upon information and belief, Defendant willfully infringed upon
13 Plaintiff's copyrighted Photograph in violation of Title 17 of the U.S. Code, in that
14 Defendant used, published, communicated, posted, publicized, and otherwise held
15 out to the public for commercial benefit, Plaintiff's original and unique Photograph
16 without Plaintiff's consent or authority.

17 56. As a result of Defendant's violations of Title 17 of the U.S. Code,
18 Plaintiff is entitled to an award of actual damages and disgorgement of all of
19 Defendant's profits attributable to the infringements as provided by 17 U.S.C. § 504
20 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for
21 statutory damages against Defendant for each infringement pursuant to 17 U.S.C. §
22 504(c).

23 57. As a result of the Defendant's violations of Title 17 of the U.S. Code,
24 the court in its discretion may allow the recovery of full costs as well as reasonable
25 attorney's fees and costs pursuant to 17 U.S.C. § 505 from Defendant.

26 58. As a result of Defendant's violations of Title 17 of the U.S. Code,
27 Plaintiff is entitled to injunctive relief to prevent or restrain infringement of
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1 Plaintiff's copyright pursuant to 17 U.S.C. § 502.

2 **JURY DEMAND**

3 59. Plaintiff hereby demands a trial of this action by jury.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff respectfully requests that the Court enters a
6 judgment finding that Defendant has infringed on Plaintiff's rights to the
7 Photograph in violation of 17 U.S.C. §501 *et seq.* and therefore award damages
8 and monetary relief as follows:

- 9 a. finding that Defendant infringed Plaintiff's copyright interest in
10 and to the Photograph by copying and displaying it without a
11 license or consent;
- 12 b. for an award of actual damages and disgorgement of all of
13 Defendant's profits attributable to the infringements as provided
14 by 17 U.S.C. § 504(b) in an amount to be proven or, in the
15 alternative, at Plaintiff's election, an award for statutory damages
16 against Defendant for each infringement pursuant to 17 U.S.C. §
17 504(c), whichever is larger;
- 18 c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant
19 from any infringing use of any of Plaintiff's works;
- 20 d. for costs of litigation and reasonable attorney's fees against
21 Defendant pursuant to 17 U.S.C. § 505
- 22 e. for pre-judgment interest as permitted by law; and
- 23 f. for any other relief the Court deems just and proper.
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1 DATED: May 20, 2025

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